IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 1583 of 1994

Between:

1 Alla Murahari Rao S/o.Peda Anjaiah
R/o.Sadasivunipalem, Khammam Dist.
2 A.Satyanarayana,
R/o.Qr.No.646-B, BHEL Township, Hyderabad.

..... PETITIONERS

AND

1 The District Collector, Khammam.
2 The Dy. Executive Engineer (Investigation Section),
Irrigation Department, Palvancha, Khammam Dist.
3 Superintending Engineer, Irrigation Dept., Warangal.
4 The Mandal Revenue Officer, Sathupalli, Khammam Dist.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, direction or order more particularly one in the nature of the Writ of Mandamus declaring the action of the respondents in proposing to dig and widen the petitioners' private channel in Sy. Nos.29, 68, 87, 89, 90, 94, 97 and 99 of Sadasivunipalem Village, Sathupalli Mandal, Khammam District for the purpose of diverting the water from natural flow without initiating the proceedings under the Land Acquisition Act, 1894 and without considering the objections of the petitioners as illegal, contrary to law and without any jurisdiction and violative of the petitioners' property rights as guaranteed by Article 330-A of the Constitution of India and further direct the Respondents to drop the same.

Counsel for Petitioners: MR. M.V.DURGA PRASAD

Counsel for Respondents: GOVERNMENT PLEADER FOR IRRIGATION AND COMMAND AREA DEVELOPMENT

The Court made the following:

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ORDER:

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This writ petition is filed, seeking Writ of Mandamus, to declare the action of the respondents in proposing to widen the existing channel from the lands of the petitioners in Survey Nos.29, 68, 87, 89, 90, 94, 97 and 99 of Sadasivunipalem Village, Sathupalli Mandal, Khammam District, as illegal and arbitrary.

It is the case of the petitioners that the said channel, which passes through their lands is a private channel and the respondents have taken up proposal to dig and widen the channel, affecting their lands, without notifying the required piece of land for the purpose of widening, under the provisions of the Land Acquisition Act, 1894.

In the counter affidavit filed on behalf of the respondents, it is stated that the lands in Survey Nos.29, 68, 87, 89, 90, 94, 97 and 99 of Sadasivunipalem Village, Sathupalli Mandal, Khammam District are being irrigated through a field channel, which gets water from a canal, by name, Sidharam feeder channel, which starts from Sidharam Anicat constructed across Thammileru river. It is stated, no private irrigation channels are existing to feed the above said fields. While denying the allegation of the petitioners that the above channel belong to them, it is stated, the said channel, in addition to irrigating the fields, enroot also, feeds the tank, by name, Thummala Cheruvu of Sadasivunipalem Village, under which 550 acres of land is already developed. It is further stated that improvement works are taken up for the larger benefit of ayacutdars of Thummala Cheruvu. The learned Government Pleader appearing for the respondents also produced a letter dated 16-09-2003 addressed by the Mandal Revenue Officer, Sathupally Mandal, enclosing the letter of the petitioners, wherein the petitioners have expressed no objection for the purpose of improvement works up to 10 links as per the agreement between the petitioners and ayacutdars of Thummala Cheruvu.

As per the counter affidavit filed on behalf of the respondents, it is evident that they

have disputed the allegation of the petitioners that the channel which exists in the land in Survey Nos.29, 68, 87, 89, 90, 94, 97 and 99 of Sadasivunipalem Village is a private channel of the petitioners. Further, it is stated that the said improvement works are taken up for the larger benefit of agriculturists, who are the ayacutdars of Thummala Cheruvu. In any event, in view of the consent given by the petitioners, they should not have any grievance. In that view of the matter, I do not find any merit in this writ petition for grant of relief as prayed for.

The writ petition is accordingly dismissed. No order as to costs.

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R.SUBHASH REDDY, J

24th January, 2004.

Ak/Msnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Collector, Khammam.

2. The Deputy Executive Engineer (Investigation Section),

Irrigation Department, Palvancha, Khammam District.

3. The Superintending Engineer, Irrigation Department, Warangal.

4. The Mandal Revenue Officer, Sathupalli, Khammam District.

5. Two CCs to the Government Pleader for Irrigation and Command

Area Development, High Court Buildings, Hyderabad (O.U.T).

6. Two CD copies.